

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

IN RE: CLOBETASOL CASES
*All Direct Purchaser, End-Payer, and
Indirect Reseller Actions*

IN RE: DIGOXIN CASES
*All Direct Purchaser, End-Payer, and
Indirect Reseller Actions*

IN RE: DIVALPROEX ER CASES
*All Direct Purchaser, End-Payer, and
Indirect Reseller Actions*

IN RE: DOXYCYCLINE CASES
*All Direct Purchaser, End-Payer, and
Indirect Reseller Actions*

IN RE: ECONAZOLE CASES
*All Direct Purchaser, End-Payer, and
Indirect Reseller Actions*

IN RE: PRAVASTATIN CASES
*All Direct Purchaser, End-Payer, and
Indirect Reseller Actions*

MDL 2724
16-MD-2724

HON. CYNTHIA M. RUGE

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ORDER

AND NOW, this 16th day of October 2018, upon consideration of the Group 1 Motions to Dismiss, the responses and replies thereto, and the arguments of counsel, and for the reasons set forth in the accompanying Opinion, it is hereby **ORDERED** that the Motions are disposed of as set forth herein to the extent that they seek to dismiss the Sherman Act claims brought by the Group 1 Direct Purchaser Plaintiffs (“DPPs”), End-Payer Plaintiffs (“EPPs”), and Indirect

Reseller Plaintiffs (“IRPs”).¹ For purposes of Pretrial Order No. 51, this Order shall constitute resolution of the Group 1 Motions.

A. Clobetasol Actions

1. Defendants’ Joint Motion to Dismiss the DPPs’ Class Action Complaint [Doc. No. 77 in 16-CB-27241] is **DENIED**;
2. Defendants’ Joint Motion to Dismiss the EPPs’ Class Action Complaint [Doc. No. 129 in 16-CB-27242] is **DENIED** to the extent that it seeks to dismiss the first count of the clobetasol EPPs’ Class Action Complaint;
3. Defendants’ Joint Motion to Dismiss the IRPs’ Class Action Complaint [Doc. No. 39 in 16-CB 27243] is **DENIED** to the extent that it seeks to dismiss the first count of the clobetasol IRPs’ Class Action Complaint;
4. Defendants Wockhardt USA LLC’s and Morton Grove Pharmaceuticals, Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 177 in 16-CB-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 clobetasol DPPs, EPPs, and IRPs;
5. Defendants Akorn, Inc.’s and Hi-Tech Pharmacal Co., Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 178 in 16-CB-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 clobetasol DPPs, EPPs, and IRPs;
6. Defendant Perrigo New York Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 179 in 16-CB027240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 clobetasol DPPs, EPPs, and IRPs.
7. Defendants Actavis Holdco U.S., Inc.’s and Actavis Pharma, Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 180 in 16-CB-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 clobetasol DPPs, EPPs, and IRPs.

¹ To the extent that Group 1 Defendants move to dismiss the state law claims brought on behalf of the Group 1 EPPs and IRPs, the Court intends to address those claims separately.

B. Digoxin Actions

1. Defendants' Joint Motion to Dismiss the DPPs' Class Action Complaint [Doc. No. 81 in 16-DG-27241] is **DENIED**;
2. Defendants' Joint Motion to Dismiss the EPPs' Class Action Complaint [Doc. No. 139 in 16-DG-27242] is **DENIED** to the extent that it seeks to dismiss the first count of the digoxin EPPs' Class Action Complaint;
3. Defendants' Joint Motion to Dismiss the IRPs' Class Action Complaint [Doc. No. 48 in 16-DG 27243] is **DENIED** to the extent that it seeks to dismiss the first count of the digoxin IRPs' Class Action Complaint;
4. Defendant West-Ward Pharmaceuticals Corp.'s Individual Motion to Dismiss the Class Action Complaints [Doc. No. 192 in 16-DG-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 digoxin DPPs, EPPs, and IRPs;
5. Defendant Impax Laboratories, Inc.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 193 in 16-DG-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 digoxin DPPs, EPPs, and IRPs;
6. Defendant Par Pharmaceutical Inc.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 194 in 16-DG-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 digoxin DPPs, EPPs, and IRPs;
7. Defendants Mylan Inc.'s and Mylan Pharmaceuticals Inc.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 195 in 16-DG-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 digoxin DPPs, EPPs, and IRPs.

C. Divalproex ER Actions

1. Defendants' Joint Motion to Dismiss the DPPs' Class Action Complaint [Doc. No. 79 in 16-DV-27241] is **DENIED**;
2. Defendants' Joint Motion to Dismiss the EPPs' Class Action Complaint [Doc. No.

102 in 16-DV-27242] is **DENIED** to the extent that it seeks to dismiss the first count of the divalproex ER EPPs' Class Action Complaint;

3. Defendants' Joint Motion to Dismiss the IRPs' Consolidated Class Action Complaint [Doc. No. 24 in 16-DV-27243] is **DENIED** to the extent that it seeks to dismiss the first count of the divalproex ER IRPs' Class Action Complaint;
4. Defendants Dr. Reddy's Laboratories, Inc.'s and Zydus Pharmaceuticals [USA], Inc.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 161 in 16-DV-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 divalproex ER DPPs, EPPs, and IRPs;
5. Defendants Mylan Inc.'s and Mylan Pharmaceuticals Inc.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 162 in 16-DV-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 divalproex ER DPPs, EPPs, and IRPs.

D. Doxycycline Actions

1. Defendants' Joint Motion to Dismiss the DPPs' Class Action Complaint [Doc. No. 92 in 16-DX-27241] is **DENIED**;
2. Defendants' Joint Motion to Dismiss the EPPs' Class Action Complaint [Doc. No. 162 in 16-DX-27242] is **DENIED** to the extent that it seeks to dismiss the first count of the doxycycline EPPs' Class Action Complaint;
3. Defendants' Joint Motion to Dismiss the IRPs' Class Action Complaint [Doc. No. 57 in 16-DX 27243] is **DENIED** to the extent that it seeks to dismiss the first count of the doxycycline IRPs' Class Action Complaint;
4. Defendant Mayne Pharma Inc.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 295 in 16-DX-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 doxycycline DPPs, EPPs, and IRPs;
5. Defendant West-Ward Pharmaceuticals Corp.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 296 in 16-DX-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the

Group 1 doxycycline DPPs, EPPs, and IRPs;

6. Defendant Par Pharmaceutical, Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 297 in 16-DX 27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 doxycycline DPPs, EPPs, and IRPs;
7. Defendants Mylan Inc.’s and Mylan Pharmaceuticals Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 298 in 16-DX-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 doxycycline DPPs, EPPs, and IRPs;
8. Defendant Actavis Holdco U.S., Inc.’s and Actavis Pharma, Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 299 in 16-DX-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 doxycycline DPPs, EPPs, and IRPs.

E. Econazole Actions

1. Defendants’ Joint Motion to Dismiss the DPPs’ Class Action Complaint [Doc. No. 67 in 16-EC-27241] is **DENIED**;
2. Defendants’ Joint Motion to Dismiss the EPPs’ Class Action Complaint [Doc. No. 114 in 16-EC-27242] is **DENIED** to the extent that it seeks to dismiss the first count of the econazole EPPs’ Class Action Complaint;
3. Defendants’ Joint Motion to Dismiss the IRPs’ Class Action Complaint [Doc. No. 23 in 16-EC-27243] is **DENIED** to the extent that it seeks to dismiss the first count of the econazole IRPs’ Class Action Complaint;
4. Defendant Teligent, Inc.’s Individual Motion to Dismiss the DPPs’, EPPs’, and IRPs’ Class Action Complaints [Doc. No. 164 in 16-EC-27240] is **GRANTED**. The Sherman Act claims of the econazole DPPs, EPPs, and IRPs against Defendant Teligent are **DISMISSED** without prejudice. Econazole Plaintiffs may seek leave to amend their Sherman Act claims against Teligent pursuant to the provisions of Pretrial Order No. 51.

F. Pravastatin Actions

1. Defendants' Joint Motion to Dismiss the DPPs' Class Action Complaint [Doc. No. 70 in 16-PC-27241] is **DENIED**;
2. Defendants' Joint Motion to Dismiss the EPPs' Class Action Complaint [Doc. No. 114 in 16-PV-27242] is **DENIED** to the extent that it seeks to dismiss the first count of the pravastatin EPPs' Class Action Complaint;
3. Defendants' Joint Motion to Dismiss the IRPs' Class Action Complaint [Doc. No. 33 in 16-PV-27243] is **DENIED** to the extent that it seeks to dismiss the first count of the pravastatin IRPs' Class Action Complaint;
4. Apotex Corp.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 168 in 16-PV-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 pravastatin DPPs, EPPs, and IRPs.
5. Glenmark Pharmaceuticals, Inc. USA's Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 169 in 16-PV-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 pravastatin DPPs, EPPs, and IRPs.
6. Sandoz Inc.'s Individual Motion to Dismiss the DPPs', EPPs', and IRPs' Class Action Complaints [Doc. No. 170 in 16-PV-27240] is **DENIED** to the extent that it seeks to dismiss the Sherman Act claims brought by the Group 1 pravastatin DPPs, EPPs, and IRPs.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUGE, J.